

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

KIRK OCHOA,

Plaintiff,

-v.-

Civil Action No.
9:05-cv-1068 (GLS/RFT)

SUSAN A .CONNELL, Supt., Oneida
Corr. Fac.; EVANS, Corr. Officer;
LAGASSE, Corr. Officer; WYBORSKY,
Corr. Officer; RUTH, Corr. Officer;
ENGLEBURT, Corr. Officer; FLISNIK, Corr.
Officer,

Defendants.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

KIRK OCHOA
Plaintiff Pro Se
c/o Jennifer Godfrey
3337 Mickle Ave.
Bronx, New York 10469

FOR THE RESPONDENT:

HON. ANDREW M. CUOMO
Attorney General for the State
of New York
Attorney for Defendants
New York State Department
of Law
The Capitol
Albany, New York 12224

CHARLES J. QUACKENBUSH, ESQ.
Assistant Attorney General

GARY L. SHARPE,
U.S. DISTRICT JUDGE

ORDER

The above-captioned matter comes to this court following a Report-Recommendation by Magistrate Judge Randolph F. Treece, duly filed September 25, 2007. Following ten days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby

ORDERED, that the Report-Recommendation of Magistrate Judge Randolph F. Treece filed September 25, 2007 is ACCEPTED in its entirety for the reasons state therein, and it is further

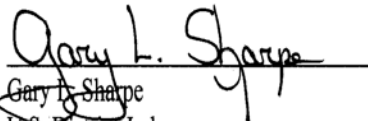
ORDERED, that Defendants' Motion for Judgment on the Pleadings (Dkt. No. 37) is GRANTED and Plaintiff's entire amended complaint is DISMISSED, and it is further

ORDERED, that the dismissal of the amended complaint is pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(i) & (iii) as frivolous and fails to state a cause of action, and it is further

ORDERED, that the Clerk of the Court is to enter judgment in favor of the Defendants and close this case.

IT IS SO ORDERED

Dated: October 18, 2007
Albany, New York


Gary L. Sharpe
U.S. District Judge